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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,753	03/27/2007	Werner Swoboda	OST-051302	2018
22876 7590 07/29/2010 FACTOR & LAKE, LTD 1327 W. WASHINGTON BLVD. SUITE 5G/H CHICAGO, IL 60607				
EXAMINER				
HILTON, ALBERT				
ART UNIT		PAPER NUMBER		
1716				
MAIL DATE		DELIVERY MODE		
07/20/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/565,753

Applicant(s)

SWOBODA ET AL.

Examiner

Albert Hilton

Art Unit

1716

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Parviz Hassanzadeh/
Supervisory Patent Examiner, Art Unit 1716

/Albert Hilton/
Examiner, Art Unit 1716

Claim 1 stands rejected under 35 USC 103(a) as being unpatentable over Smith (US Patent No. 6394796) in view of Eich (US Patent No. 4712014), Feroce (E.P. Patent No. 0851193), and Koren (US Patent No. 6567162).

Regarding claim 1, Applicant argues that Koren teaches an inspection apparatus for measuring an object on a production line, but does not teach the use of measurement data to machine the object. The examiner maintains that claim 1 only requires a measurement station capable of measuring the spatial data of the object and subsequently hardening the object. The claim, as written, does not further require the apparatus to make use of the acquired data to further process the object or to manipulate the hardening apparatus.

Applicant further argues that there is no proper motivation to combine the references of Smith, in view of Eich and Feroce, with Koren. In the previous action, the examiner argued that Koren teaches a measurement system that can be reconfigured to accommodate different objects. Applicant argues that:

"Applicant understands this to mean that the motivation to modify the device of Smith would be that one of ordinary skill in the art would want to modify the device of Smith. Applicant believes that this is not a proper motivation. Rather, a proper motivation would provide why, one of ordinary skill in the art would want to modify the device of Smith-- as opposed to merely wanting to modify the device of Smith."

The examiner asserts that, rather than simply allowing for the device to be modified for only the sake of modifying the device, the advantage of an easily reconfigurable measurement system lies in its ability to accommodate a variety of different objects in the processing line. This is emphasized in Koren:

"The sensors and the camera are reconfigurably mounted on any of the supports such that the inspection system can be quickly reconfigured for inspecting a second part, such as a new or redesigned part of the same or related family of parts or to re-inspect the same part at a different stage of the manufacturing process."

The examiner contends that a measurement system which is easy to reconfigure provides advantages that would be clearly appreciated by one of ordinary skill in the art over a measurement system which is not easy to reconfigure, and therefore is a proper motivation for combining the teachings of Koren with those of Smith, in view of Eich and Feroce.